

## DEPARTMENT OF BENEFIT PAYMENTS

744 P Street, Sacramento, CA 95814



April 11, 1983

ALL-COUNTY LETTER NO. 83-34

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: MORENO V. PROD -- AFDC

## REFERENCE:

The Alameda Superior Court on March 25, 1983 issued a Preliminary and Permanent Injunction (Order) in the lawsuit entitled Moreno v. Prod. The order requires the Department and the counties to implement the order by April 24, 1983. A copy of the court order is attached (Attachment I).

In the case, the plaintiffs requested that the court rule on three separate issues. The plaintiffs contended that: 1) State-only AFDC-U recipients are entitled to a separate termination notice, 2) State-only AFDC-U recipients are entitled to aid paid pending a state hearing on the termination of the State-only AFDC-U benefits and 3) the State Notice of Action (NA 201) does not adequately explain the reason federal AFDC benefits were denied.

The judge ruled that: 1) a second termination notice of State-only AFDC-U aid is not required, and 2) State-only AFDC-U recipients are not entitled to aid paid pending a state hearing beyond the term of the program. However, the judge ruled in favor of the plaintiffs on the third issue in that the NA 201 fails to inform applicants/recipients that they have been denied federal AFDC benefits and of the reason(s) for the denial. The judge's rulings on these issues resolved all matters before the court. Therefore, all parties agreed that the order of the court could be entered as a final and permanent injunction.

The order requires the Department and the County Welfare Departments to implement four items.

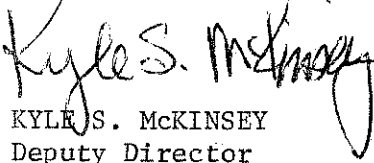
1. The Department shall prepare an adequate initial Notice of Action which clearly denies federal AFDC benefits and explains the reason(s) for the denial.
2. The County Welfare Departments shall issue the new initial Notice of Action to all new State-only AFDC-U applicants.

3. The County Welfare Departments shall send to all current State-only AFDC-U recipients a general notice which explains the reasons they were denied federal AFDC benefits.
4. The County Welfare Departments shall send a notice in the form prescribed in the court order to each recipient whose State-only AFDC-U benefits were terminated with the Notice of Action (NA 201).

The Department is preparing a new Notice of Action and will transmit it to you as soon as possible. This new Notice of Action will replace the current NA 201 for all applicants of State-only AFDC-U. In addition, the Department is preparing the required form which is to be sent to current recipients of State-only AFDC-U. Until you receive the new Notice of Action continue using the current NA 201. Do not use the proposed notice which is attached as Exhibit I to the court order.

Pursuant to the order of the court, each county shall send a copy of the attached reproducible Important Notice (TEMP 1559) to each former recipient of State-only AFDC-U benefits whose aid was granted (and automatically discontinued) by the message language transmitted in All County Letter 82-95, September 16, 1982 or the Notice of Action (NA 201). This notice shall be sent as soon as administratively possible but no later than April 24, 1983. It is not necessary to send this notice to former recipients of State-only AFDC-U who received a regular discontinuance notice of action with the right to aid paid pending the state hearing. The Department realizes that items 3 and 4 of this notice do not address the principal earner concept. However, it is still necessary to establish the principal earner and in any family whose federal AFDC eligibility is reconsidered that individual must meet one of the conditions specified in items 3 or 4. You may provide the address and telephone number of the local legal aid in the space provided at the bottom of the Important Notice.

If you have any questions concerning this letter, please contact your AFDC Management Consultant at (916) 445-4458.

  
 KYLE S. MCKINSEY  
 Deputy Director

Attachment

cc: CWDA

EVELYN R. FRANK  
EDWARD BARNES  
CLIFFORD SWEET  
LEGAL AID SOCIETY OF ALAMEDA COUNTY  
2357 San Pablo Avenue  
Oakland, California 94612  
Telephone: (415) 465-4376

ENDORSED  
FILED

MAR 25 1983

KATE MEISS  
WESTERN CENTER ON LAW AND POVERTY, INC.  
1900 K Street, Suite 200  
Sacramento, California 95814  
Telephone: (916) 442-0753

RENE C. DAVIDSON County Clerk  
MICHAEL D. MERRIMAN Deputy

Attorneys for Plaintiffs and Petitioners

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

MARTHA MORENO, SHERRY BLAIR,  
and CALIFORNIA COALITION OF  
WELFARE RIGHTS ORGANIZATIONS,

Petitioners and Plaintiffs,

vs.

JEROLD A PROD, Director of the  
State Department of Social  
Services, and DEPARTMENT OF  
SOCIAL SERVICES, an agency of  
the State of California,

Respondents and Defendants.

NO. H-88428-6

PRELIMINARY AND PERMANENT  
INJUNCTION

The above matter came on for hearing on March 4, 1983,  
pursuant to an order to show cause re preliminary injunction,  
issued on January 27, 1983. Evelyn R. Frank and Edward Barnes  
appeared as counsel for plaintiffs, and Catherine M. Van Aken  
appeared as counsel for defendants.

Plaintiffs contend that recipients of state-only AFDC-U  
benefits are, as a matter of due process, entitled to an adequate  
initial notice which clearly informs them that they are being  
denied federal AFDC benefits, and informs them of the eligibility

1 criteria for federal benefits in a reasonably complete, accurate  
2 and intelligible manner. Plaintiffs further contend that  
3 recipients of state-only AFDC-U are also, as a matter of due  
4 process and state law entitled to an adequate pre-termination  
5 notice and to a pre-termination hearing at which they must have  
6 an opportunity to contend that they are federally eligible for  
7 AFDC, and therefore entitled to continuing receipt of benefits,  
8 although they have exhausted their state-only benefits.

9 Defendants contend that their initial notice is constitu-  
10 tionally adequate. They further contend that, because the  
11 state-only AFDC-U program is a short-term program, because the  
12 initial notice informs recipients that their benefits will end  
13 on a date certain, and because a hearing is available if requested  
14 within 90 days of the initial notice or before the end of the benefit  
15 period, whichever is later, no pre-termination notice or oppor-  
16 tunity for pre-termination hearing is required.

17 The Court has considered the complaint, the memoranda of  
18 points and authorities, the exhibits and appendices thereto, and  
19 the declarations filed in support of plaintiffs' memoranda and  
20 has heard and considered the arguments of counsel. The parties  
21 have stipulated to entry of a final and permanent injunction.

22 The Court finds that defendants are now and, unless  
23 restrained from doing so, will in the future give state-only  
24 AFDC-U recipients constitutionally inadequate initial notices  
25 which fail clearly to inform them that they have been denied  
26 federal AFDC benefits, and fail completely, accurately and  
27 intelligibly to inform them of the eligibility criteria for  
28 federal AFDC benefits.

1       The court further finds that no additional pre-termination  
2 notice or opportunity for pre-termination hearing is required  
3 before state-only AFDC-U benefits end. The court bases this  
4 finding on the fact that the state-only AFDC-U program is a  
5 short-term one, on the fact that the initial notice given to  
6 state-only AFDC-U recipients informs them that their benefits  
7 are time-limited and will end on a date certain, and on the fact  
8 that defendants now provide a hearing to state-only AFDC-U  
9 recipients if the hearing is requested within 90 days of the date  
10 of the initial notice or before the end of the benefit period,  
11 whichever is later.

12       IT IS THEREFORE HEREBY ORDERED that defendants JEROLD A.  
13 PROD and the DEPARTMENT OF SOCIAL SERVICES, their successors in  
14 office, agents, assigns, employees, and all persons acting in  
15 concert with them or subject to their control and supervision,  
16 shall be and hereby are enjoined and restrained from failing  
17 to give an adequate initial notice to recipients of state-only  
18 AFDC-U benefits, clearly informing them that they have been  
19 denied federal AFDC benefits, and informing them of the  
20 eligibility criteria for federal AFDC programs in a reasonably  
21 complete, accurate and intelligible manner.

22       In implementation of the foregoing order, defendants shall:

23       1. Prepare an adequate initial notice, which clearly  
24 informs recipients of state-only AFDC-U benefits that they have  
25 been denied federal AFDC benefits, and which provides them with  
26 sufficient information regarding the eligibility criteria for  
27 federal AFDC programs so that they may judge whether or not the  
28 county's action is correct, and so that they can make an

1 informed decision whether or not to request corrective action or  
2 to appeal. At this time, the court will not order any particular  
3 language or format. However, the Court finds that the notice  
4 attached hereto as Exhibit 1 (Plaintiffs' Exhibit "B") is adequate,  
5 and orders that defendants prepare a notice which, at a minimum,  
6 contains the information contained therein.

7           2. Within 30 days of the date of this order, defendants  
8 shall inform the county welfare departments of the terms of this  
9 order, and transmit to them the form prepared pursuant to  
10 paragraph 1, above. Defendants shall further instruct the county  
11 welfare departments to send a completed form to each recipient  
12 in all future cases granting state-only AFDC-U benefits.

13           3. Also, within 30 days of the date of this order,  
14 defendants shall instruct the county welfare departments to send  
15 at least that portion of the form prepared pursuant to paragraph  
16 1, above, which relates to the denial of aid under the federal  
17 AFDC program to each recipient receiving state-only AFDC-U  
18 benefits as of the date of defendant's transmittal.

19           4. Defendants shall order the county welfare  
20 departments to send a notice in the form attached hereto as  
21 Exhibit 2 to each recipient who did not receive an adequate  
22 initial notice and whose state-only AFDC-U benefits were  
23 terminated without a pre-termination notice and opportunity  
24 for hearing.

25           IT IS FURTHER ORDERED that plaintiffs' application for a  
26 preliminary and permanent injunction requiring defendants to  
27 provide a pre-termination notice and opportunity for a  
28

1 pretermination hearing to recipients of state-only AFDC-U  
2 benefits is denied.

3 This order is prohibitory, and effective immediately.

4 The court reserves jurisdiction to enforce the terms  
5 of this order, and to award attorneys' fees and costs upon a  
6 properly noticed motion therefor.

7 Bond is waived.

8  
9 DATED: MAR 25 1983

RAYMOND L. MARSH

10  
11 Judge of the Superior Court  
12  
13  
14  
15  
16  
17  
18

19 Approved as to form.

20  
21 Catherine M. Van Aken  
22 CATHERINE M. VAN AKEN  
23 Deputy Attorney General  
24 Attorney for Defendant

25 Evelyn R. Frank  
26 EVELYN R. FRANK

27 Attorney for Plaintiffs

**DATE:**

Also, any quarter in which you spent at least five days in work training in a WIN program or a Community Work Experience Program (CWEP) counts. If you are a refugee, quarters when you worked before coming to the United States, including quarters when you worked in a refugee camp, also count towards federal eligibility.



☐ Emergency Assistance Program. Under this program, families can receive aid for one period of up to 30 days in any 12-month period. Your eligibility period under this program begins on \_\_\_\_\_ and ends on \_\_\_\_\_

ments.

[illegible]

or  
 Net Nonexempt Income Total (columns 1 + 2 + 3)

# EXHIBIT

IMPORTANT NOTICE

You recently received state-only AFDC-U benefits, and had your benefits terminated after three months because of a change in state law.

The Court in Moreno v. Prod, No. H 88428-6 (Ala. Cty. Superior Court), has held that the initial notice which you received was constitutionally inadequate, because it did not give you enough information for you to decide whether you were eligible for federal AFDC benefits, which have no time limit.

You may be eligible for federal AFDC benefits, with no time limit, if:

1. There is only one parent in your home; or
2. There are two parents in your home, but one parent is unable to work full time for at least 30 days because of a physical or mental disability: or
3. One of the two parents in your home was eligible to receive Unemployment Insurance Benefits at any time going back to one year prior to your application for AFDC; or
4. One of the two parents in your home has worked enough in the past to be federally eligible. Any job, including "odd jobs" such as mowing lawns or babysitting, counts toward federal eligibility. Also, payment in the form of food, clothing, or other "in kind" items, instead of a cash or check, counts. Participation in work training in a WIN program or a Community Work Experience Program (CWEP) also counts. If you are a refugee, work which you did before you came to the United States also counts towards federal eligibility.

If you think that you may be eligible for federal AFDC benefits, you should contact your county welfare department for further information. You may also get help from your local Legal Aid or CRLA office.

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(In this space the counties  
will include the address and  
phone number of the local  
Legal Aid or CRLA office and/  
or a toll free number at which  
such information is available.)  
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If you think that you may be eligible for federal AFDC benefits, you should contact your county welfare department for further information. You may also get help from your local Legal Aid or CRLA office. You can get help in locating free legal assistance by calling the toll-free number: (800) 952-5253. (You may have to dial "1" first.)

**AVISO IMPORTANTE**

Usted recibió recientemente beneficios de AFDC-U sólo del Estado, y dichos beneficios terminaron después de tres meses debido a un cambio en la ley estatal.

La decisión de la Corte en el caso de **Moreno vs. Prod.**, No. H 88428-6 (Corte Superior del Condado de Alameda), sostiene que la notificación inicial que usted recibió fue inapropiada constitucionalmente, debido a que no proporcionó suficiente información para que usted decidiera si calificaba para beneficios federales de AFDC, los cuales no tienen límite de tiempo.

Puede ser que usted califique para beneficios federales de AFDC, sin límite de tiempo, si:

1. Hay sólo un padre o una madre en su hogar;

o

2. Están el padre y la madre en su hogar, pero uno de los dos no puede trabajar tiempo completo por lo menos por 30 días debido a una incapacidad física o mental;

o

3. El padre o la madre en su hogar calificaba para recibir Beneficios del Seguro de Desempleo en cualquier período hasta un año antes de su solicitud para AFDC;

o

4. El padre o la madre en su hogar ha trabajado tiempo suficiente en el pasado para calificar bajo el programa federal. Cualquier trabajo, incluyendo trabajos ocasionales como cortar el césped o cuidar a niños, se toma en consideración para calificar bajo el programa federal. Además, se toman en cuenta los pagos en forma de comida, ropa, u otra remuneración que no consista de dinero o cheques. También se toma en cuenta la participación en entrenamiento para trabajo en un programa de WIN o un Programa de Experiencia para Trabajo de la Comunidad (Community Work Experience Program, CWEP). Si es usted refugiado, también se cuenta para su elegibilidad federal el trabajo que haya hecho antes de venir a los Estados Unidos.

Si usted piensa que puede calificar para beneficios federales de AFDC, debe comunicarse con su departamento de bienestar del condado para obtener más información. También, puede obtener ayuda de la oficina local de Asistencia Legal (Legal Aid) o de CRLA. Es posible que pueda obtener ayuda para localizar asistencia legal sin costo alguno para usted si llama al número gratuito (800) 952-5253 (es posible que tenga que marcar el número "1" primero).